J-S28007-13

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

VICTORIA R. BIBBS,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellant	:	
	:	
v.	:	
	:	
CHARLES E. BIBBS,	:	
	:	
Appellee	:	No. 1200 WDA 2012

Appeal from the Order Entered June 27, 2012,
In the Court of Common Pleas of Erie County,
Domestic Relations Division, at No. NS2 0010-2523.

BEFORE: SHOGAN, LAZARUS and PLATT*, JJ.

MEMORANDUM BY SHOGAN, J.: FILED: July 15, 2013

This is a *pro se* appeal by Victoria R. Bibbs ("Mother") from the June 27, 2012 order terminating the child support obligation of Charles E. Bibbs ("Father") for the parties' nineteen-year-old son, Victor. We affirm.

This child support case appears to have begun in 2001. Most recently, the trial court entered an interim order on May 16, 2012, terminating child support at the end of the 2011-2012 school year, as Victor was nineteen years old, although he was still in high school. Mother requested a trial *de novo*, which was held on June 27, 2012. Mother was present at the hearing; Father was absent. Following the hearing, the trial court entered an order on June 27, 2012, terminating Father's support obligation. Mother filed a

*Retired Senior Judge assigned to the Superior Court.

notice of appeal on July 27, 2012. Both the trial court and Mother complied with Pa.R.A.P. 1925. Father has not filed a brief.

While Mother purports to delineate the required sections of a proper brief to this Court, she has wholly failed to do so. The Statement of the Questions Involved is a recitation of aspects of the Judicial Code of Conduct and an unidentified list of "administrative responsibilities." Mother's Brief at 6. The Statement of the Case is a disjointed outline of unintelligible statements appearing to reference procedural history. ***Id***. at 8. There are no issues identified, nor is there any identifiable argument for us to address.

> "[W]hen an appellant fails adequately to identify in a concise manner the issues sought to be pursued on appeal, the trial court is impeded in its preparation of a legal analysis which is pertinent to those issues." . . . (quoting ***In re Estate of Daubert***, 757 A.2d 962, 963 (Pa. Super. 2000)). Consequently, Father's claim is waived on appeal. ***See Lineberger v. Wyeth***, 894 A.2d 141, 148–149 (Pa. Super. 2006).

Reinert v. Reinert, 926 A.2d 539, 542 (Pa. Super. 2007).

Further, when an appellant's brief is so unintelligible that we cannot undertake meaningful review of the issue, this Court has authority to quash the appeal. ***See Melton v. Melton***, 831 A.2d 646 (Pa. Super. 2003) (*pro se* appeals filed by wife in divorce action quashed where brief violated almost every rule of appellate procedure governing the content of briefs and was indecipherable). We decline to quash the appeal at hand.

Based upon our review of the Pa.R.A.P. 1925(b) statement Mother filed, we discern that she attempted to raise as issues Father's absence from

the hearing and the trial court's discontinuance of Father's child support obligation. We have reviewed the record and considered the relevant law. The trial court has provided a cogent and complete analysis of these issues,[1] and we affirm based upon the September 6, 2012 opinion of the Honorable William R. Cunningham.[2]

Order affirmed.

Judgment Entered.

Deputy Prothonotary

Date: July 15, 2013

[1] We reject the trial court's finding of waiver regarding the issuance of a bench warrant based upon Mother's failure to request it. Our reading of Pa.R.C.P. 1910.13-1 compels the conclusion that such request is not mandated. The trial court, however, sufficiently addressed the issue on an alternative basis, and we adopt that reasoning for purposes of our affirmance. ***See*** Opinion, 9/6/12, at 3.

[2] The parties are directed to attach a copy of that opinion in the event of further proceedings in this matter.

J-S28007-13

VICTORIA BIBBS, Plaintiff	:	IN THE COURT OF COMMON PLEAS
	:	OF ERIE COUNTY, PENNSYLVANIA
v.	:	
	:	No. NS 200102523
CHARLES E. BIBBS, Defendant	:	PASCES Case No. 607103927

OPINION

Appellant, Victoria Bibbs, is the mother of Victor Bibbs, date of birth, April 24, 1993. Appellant was the recipient of child support from the child's father, Charles E. Bibbs, Appellee. In the Spring of 2012, Appellant received a Notice of Emancipation from the Erie County Domestic Relations Office indicating Appellee's child support obligation would terminate at the end of the 2011-2012 school year as the child, Victor, was 19 years old but still in the twelfth grade of high school.

After a support conference, an Interim Order dated May 16, 2012, was entered terminating the child support Order. Appellant filed a request for a hearing *de novo,* which was held June 27, 2012, before this Court. Appellant was present for the hearing; Appellee did not appear.

Appellant sought reinstatement of the support Order because the child had not graduated from high school. At the hearing *de novo*, Appellant presented a document from the school district, dated March 7, 2012, indicating the child had missed 55.5 days of school out of 125 days for the 2011-2012 school year. *Court Exhibit "A".* Appellant also submitted a document, dated March 8, 2012, indicating the child was a full-time student in good standing with the Millcreek School District. *Court Exhibit "B".* There was no evidence the child's absenteeism was due to illness, physical limitation or other disability.

An Order was entered on June 27, 2012, terminating Appellee's child support obligation. Appellant filed a timely Notice of Appeal on July 27, 2012 and a 1925(b) Statement of Matters Complained of on Appeal on August 21, 2012.

Appellant claims it was error not to issue a bench warrant for Appellee's failure to appear at the *de novo* hearing. Second, Appellant claims as error: "Continue of Support was terminated, without his testimony, nor Appearance, which was improper, according to the **Rule of Civil Procedures.** In spite of the fact the school presented a letter confirming the good Standing of our son's current status and his still enrollment and attendance. Yet, in spite of all these improper actions, no relief was granted, by way of continuation, nor modification of the Support Order." *Statement of Matters Complained of on Appeal, August 21, 2012, p. 2.*

These issues will be addressed *seriatim*.

WHETHER A BENCH WARRANT SHOULD HAVE ISSUED

Appellant claims it was error not to issue a bench warrant for Appellee's failure to appear at the *de novo* hearing pursuant to Pa.R.C.P. 1910.13-1. The Rule provides that when the missing party had actual notice of the hearing, the request for a bench warrant shall be made by the domestic relations office within sixty days following the party's failure to appear. Pa.R.C.P. 1910.13-1(a)(1), (b). This Court entered a finding Appellee had actual notice of the hearing. *Trial Transcript, 6/27/12, p. 2.* The Rule sets forth specific procedures for the issuance of a bench warrant. See, Pa.R.C.P 1910.13-1 and 1910.13-2. Notably, neither Appellant nor the Domestic Relations Office requested a bench warrant.[1] As no request was made pursuant to the Rule, there was no error in not issuing a bench warrant. Appellant's failure to request a bench warrant constitutes a waiver of this issue.

[1] A representative of the Domestic Relations Office was present at the hearing on June 27, 2012.

In addition, Appellant has not established any prejudice by the failure to issue a bench warrant. Appellant was given a full opportunity to present her case. Appellant does not proffer any evidentiary or substantive harm she suffered because of Appellee's non-appearance or the failure to issue a bench warrant.

WHETHER APPELLANT'S SECOND CLAIM IS WAIVED AS VAGUE

Pursuant to Pa.R.A.P. 1925(b), Appellant must concisely set forth the matters on appeal. Appellant's second issue on appeal states: "Continue of Support was terminated, without his testimony, nor Appearance, which was improper, according to the **Rule of Civil Procedures.** In spite of the fact the school presented a letter confirming the good Standing of our son's current status and his still enrollment and attendance. Yet, in spite of all these improper actions, no relief was granted, by way of continuation, nor modification of the Support Order." This statement fails to identify whether an error of law was committed or an abuse of discretion occurred. This Court is left to guess what Appellant is alleging on appeal.

The Superior Court has stated:

> Pa.R.A.P. 1925 is intended to aid trial judges in identifying and focusing upon those issues which the parties plan to raise on appeal. Rule 1925 is thus a crucial component of the appellate process. *Lord,* 553 Pa. At 17, 719 A.2d at 308. "When the trial court has to guess what issues an appellant is appealing, that is not enough for meaningful review." *Commonwealth v. Dowling,* 778 A.2d 683, 686 (Pa.Super. 2001). "When an appellant fails adequately to identify in a concise manner the issues sought to be pursued on appeal, the trial court is impeded in its preparation of a legal analysis which is pertinent to those issues." *In re Estate of Daubert,* 757 A.2d 962, 963 (Pa.Super. 2000). "In other words, a Concise Statement which is too vague to allow the court to identify the issues raised on appeal is the functional equivalent of no Concise Statement at all." *Dowling,* 778 A.2d at 686. *See Commonwealth v. Seibert,* 799 A.2d 54, 2002 WL 89473, at *4, (Pa.Super. 2002).

Commonwealth v. Lemon, 804 A.2d 34, 37 (Pa.Super. 2002).

The nature of the issue presented in Appellant's second claim is not readily discernible. *202 Island Car Wash, L.P. v. Monridge Constr., Inc.*, 913 A.2d 922 (Pa.Super. 2006). While it is understandable that Appellant does not agree with the disposition, Appellant has failed to articulate what error occurred. Thus, the claim is waived for vagueness.

WHETHER APPELLANT'S CLAIM IS MERITORIOUS

Assuming *arguendo* Appellant has preserved a claim, it is inferred Appellant is contending this Court failed to consider Appellee's ability to pay child support. Alternatively, Appellant may be arguing this Court improperly concluded the child is not entitled to support even though he is still in high school.

Appellee's ability to pay was considered. It is uncontroverted Appellee receives $568.70 per month in social security disability benefits. This amount falls below the self-support reserves. Though social security payments are considered "income" for child support purposes, Pa.R.C.P. 1910.16-2(a)(6), an obligor cannot be assessed an amount which would bring the monthly income to less than the self-support reserve. The Explanatory Comment - 2010 to Pa.R.C.P. 1910.16-1 states, in relevant part:

> "D. *Self-Support Reserve ("SSR").* The amended schedule also incorporates an increase in the "Self-Support Reserve" or "SSR" from $748 per month to $867 per month, the 2008 poverty level for one person. ... [t]he Self-Support Reserve ... is intended to assure that low-income obligors retain sufficient income to meet their own basic needs, as well as to maintain the incentive to continue employment. The SSR is built into the schedule in Rule 1910.16-3 and adjusts the basic support obligation to prevent the obligor's net income from falling below $867 per month."

Appellant acknowledged Appellee's income consists of social security disability. *Trial Transcript, June 27, 2012, p. 5.* Appellee's social security disability income falls below the self-support reserve. Appellant did not present any evidence Appellee has additional income

over and above the self-support reserve which is available for child support. In fact, Appellant has never contended Appellee had any income beyond his social security disability.

The remaining issue is whether the child remains a student in good standing at the school with the possibility of graduation. Appellant claims the child only needs a few more credits to graduate and he is a full-time student in good standing at McDowell High School. Appellant averred the child will be attending summer school. As noted, Appellant presented a letter from the Millcreek School District stating, that as of March 8, 2012, the child was a student in good standing. *Court Exhibit "B"*. However, this document is not determinative of the child's current status with the school.

The *de novo* hearing was held on June 27, 2012, which was several weeks after the school year ended. Unfortunately, Appellant never presented any evidence of the child's school status as of the end of the 2011-2012 school year. Appellant did not present any evidence the child was enrolled in summer school, a fact which would have been known to Appellant at the June 27, 2012 hearing.

On the basis of this record, it is possible that Victor did not attend school after March 8, 2012, or at least attended on a minimal basis consistent with his attendance through March 8, 2012. This Court cannot find as a factual matter that the child was a student in good standing at the time of the *de novo* hearing on June 27, 2012.

CONCLUSIONS

A bench warrant was not requested by Appellant or the Domestic Relations Office and, thus, this issue is waived. Further, Appellant did not establish any prejudice to the presentation of her case by the failure to issue a bench warrant for Appellee.

Appellee's income was considered and found to be lower than the self-support reserve. There was no evidence of any additional income for Appellee. Appellant failed to prove the child, nineteen years of age, was a full-time student in good standing at McDowell High School at the end of the school year.

Based on the foregoing, this appeal must be dismissed.

BY THE COURT:

DATE: 9/6/12

WILLIAM R. CUNNINGHAM, JUDGE

cc: Victoria Bibbs, 1102 Leemar Ct., Erie, PA 16505
Charles Bibbs, 1302 Flinthilpoint, Bessemer, AL 35022-5281